Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
YEAR 2000 BIENNIAL REGULATORY REVIEW	)	**WT Docket No. 01-108**
- AMENDMENT OF PART 22 OF THE	)	
COMMISSION=S RULES AFFECTING CELLULAR	)	
RADIOTELEPHONE SERVICE AND OTHER	)	
COMMERCIAL MOBILE RADIO SERVICES	)	

To: The Commission

COMMENTS IN SUPPORT OF MAINTAINING THE ANALOG COMPATIBILITY STANDARD

Bristol Bay Cellular Partnership (ABristol Bay@), by its attorneys and pursuant to Federal Communications Commission rule Section 1.415, respectfully submits these comments in response to the *Notice of Proposed Rulemaking In the Matter of Year 2000 Biennial Regulatory Review of the Commission=s Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services*, (WT Docket No. 01-108), adopted by the FCC on May 3, 2001, and released for public comment on May 17, 2001. Through these comments Bristol Bay respectfully urges the Commission to maintain the analog cellular compatibility standard so as to preserve the availability of nationwide wireless service through a common technology.

Introduction

1. Bristol Bay is a general partnership headquartered in King Salmon, Alaska. Bristol Bay is licensed to provide cellular service in a partitioned area of Market No. 316- Alaska RSA 2 - Bethel. Cellular service is provided to coastal communities and commercial fishing fleets in southwest

Alaska.[1] Bristol Bay is owned in part and managed by an affiliate of Bristol Bay Telephone Cooperative, Inc., a landline telephone exchange carrier owned by its subscriber members in rural Alaska.

2. As a wireless service provider, Bristol Bay=s interest in this matter derives from its concern that elimination of the existing cellular analog compatibility standard will effectively deny service availability (1) to roamers in Bristol Bay=s market areas who no longer have subscriber equipment that operates on the analog standard, and (2) to Bristol Bay=s customers who own analog equipment and who travel in other areas where analog service is unavailable. This matter raises important public safety issues as well as economic issues for carriers in small and rural markets. Unless the Commission is prepared to mandate use of a single digital technology by all broadband wireless carriers, the analog compatibility standard should be retained indefinitely.[2]

The Requirement for Analog Service Compatibility Must Be Maintained

3. The Commission=s NPRM inquires as to whether the Commission should maintain or eliminate, either immediately or over time, its requirement for analog service compatibility among cellular service providers. Bristol Bay urges the Commission to maintain the analog standard and not to adopt a sunset date as to the compatibility requirement. While the transition to digital services has

[1] Bristol Bay operates cell sites in the vicinity of King Salmon, Alaska as well as in non-contiguous areas where it identified a need for cellular service, such as Kodiak, Unalaska, and on the remote islands of St. George and St. Paul.

[2] Early on in the course of fashioning rules for this industry, the Commission declined to substitute its judgement for that of each carrier to determine what digital technology, if any, a carrier should deploy. Such choices were considered best left to the marketplace. To deviate from that course now would be cataclysmic considering the investment made by carriers in incompatible digital technologies. To be clear, Bristol Bay does not suggest that the Commission now dictate a common digital standard for use by the wireless industry.

progressed quickly in larger markets, there are many rural markets including areas served by Bristol Bay where no form of digital service is currently available. Carriers such as Bristol Bay cannot financially justify conversion to digital technology, at least not immediately.[3] Roamers from other systems who are not equipped with phones operable on analog systems would not be able to place a call on Bristol Bay=s analog system. Consequently, elimination of the analog standard would effectively deny service to roamers whose home systems no longer market phones with a dual mode capability that allows for operation on analog systems.

4. The need for compatibility is equally acute when Bristol Bay=s customers travel to other markets. If other carriers no longer provide analog service, Bristol Bay=s customers who acquire equipment from Bristol Bay would not be able to make use of service in a market where no carrier offered analog service. There is no support in the record for the notion that the country is at all ready to forego assured access to analog cellular service. As digital standards are deployed, and redeployed, the analog standard remains a service lifeline. It is essential to maintain the protection now provided to subscribers by FCC Rule Section 22.901, which requires that Acellular system licensees must provide cellular mobile radiotelephone service upon request to subscribers in good standing, including roamers...@ 47 C.F.R. '22.901. No cellular subscriber should be deprived of the opportunity to place or receive a call while in another market because he or she is the home customer of a rural, analog system or a system that operates with a different digital technology.

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[3] Bristol Bay is planning an upgrade to network equipment that will include digital capability. It is nevertheless apparent that even when that upgrade is accomplished, the digital standard deployed by Bristol Bay will not be same one that all roamers use when in their home markets, and many roamers with dual mode phones will continue to use Bristol Bay=s analog service.

Public Safety Justifies Keeping the Analog Service Standard

5. Traditional cellular subscribers are not the only cellular users who would suffer from the loss of guaranteed access to analog technology. In its NPRM the Commission acknowledges that analog phones have been widely distributed by charities throughout the U.S. to persons who mainly want to be able to call A911" for emergency assistance; that General Motors= AOnStar@ automobile assistance program uses analog cellular technology; and that TTY devices currently work *only* with analog systems. NPRM &&29, 30. The value of analog service through phones used for safety must be of paramount consideration in this proceeding.

6. Safety is a high priority in the areas served by Bristol Bay and in areas adjacent thereto. The Alaskan fishing industry carries great risk of personal injury, due to a combination of almost incomprehensible weather conditions, big hooks, heavy deck gear and extreme isolation. Commercial fishing is the most dangerous job in America. A fisherman in Alaska is 16 times more likely to die than a police officer.[4] Much of the fishing activity occurs in bays and nearby off-shore locations. Despite the proximity to land the work occurs in cold and turbulent waters where windy conditions and darkness present hazardous conditions for workers. The need for reliable and reasonably priced telephone service, interconnected with the landline telephone network, follows a fishing fleet from one location to another. Analog service is an essential facilitator of the safety of both the crews and of the crucial search and rescue teams.[5] Attached hereto are articles on the

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[4] National Institute for Occupational Safety and Heath, Morbidity & Mortality Weekly Report, April 27, 2001 (Vol. 50, No. 16) pp. 317-320.

[5] Cellular service availability has proved to be an important tool to emergency workers even when a fishing accident scene is beyond the range of Bristol Bay=s on-shore cells. Search and rescue missions are typically deployed from on-shore locations, such as Kodiak, where emergency personnel make use of Bristol Bay=s cellular service.

subject of the dangers inherent in the Alaskan fishing industry, and of the heroic efforts of those who seek to assure the safety of the fleets.

7. Another example of a mobile industry in the region that relies upon basic and reliable cellular service is oil and mineral exploration. Temporary settlements accompany the exploration process, with a need for reliable telecommunications services in areas not served by local exchange carriers. Some exploration follows seasonal patterns, such as in locations where tundra roads may be established only during the winter months to minimize risk to the environment. Other exploration involves the drilling of test wells to determine where a new commercial field might be feasible. After a mineral deposit or oilfield has proved economically justifiable, production facilities, pipelines and operational infrastructure must be developed to deliver the resource to the market. The construction process is expensive and labor intensive, and requires the immediate availability of communications facilities. These activities can occur with little or no notice to cellular licensees, who are expected to immediately provide needed communications services. Having the analog standard as a common denominator for this type of use is essential to meeting the industry=s need. The standard permits Bristol Bay to assure the temporary users that their handsets will work on Bristol Bay=s cellular system.

8. Analog communications support is critical for economic growth in Bristol Bay=s region. Alaska, with its vast size and extreme climates, often has no established public infrastructure to support temporary or developing business activity in remote areas. The forms of economic activity which occur in isolated areas, such as commercial fishing, mining, oil exploration, oil production, conservation and park management, depend upon the availability of reliable communications facilities for safety and logistical support for all personnel. It greatly benefits all who live and work in the

region that analog cellular communication service is available as needed. Families can stay in touch without having to invest in the latest digital technology. Without ubiquitous analog communications accessibility there would be a substantial risk of harm to persons and property, and diminution to the quality of life. Only by retaining the analog standard will the public interest be well served.

Market Forces Do Not Yet Justify Abandoning the Analog Service Standard

9. The Commission suggests that market forces provide a sufficient incentive for cellular providers to utilize new compatible nationwide technologies. While this may be so in many places, Bristol Bay believes that the cellular analog compatibility standard should be retained as a necessary element of nationwide interoperability. Because the analog standard is prevalent in Alaska and other sparsely populated areas, subscribers of rural systems would be disadvantaged if the analog standard begins to be eliminated by cellular carriers elsewhere.

10. The analog standard does not limit carriers= ability to incorporate digital technologies. In fact, it helps the carrier to maintain a layer of analog coverage. This is because the digital signal has a weaker propagation strength than the analog signal, so the analog signal is used to fill in gaps between cells. For its part, however, Bristol Bay has no immediate plans to adopt digital technology at all of its cell sites. The cost of conversion is not justified by the number of customers who would use it, and the investment required by customers and Bristol Bay to replace all analog handsets is far too great affect a rapid transition to digital.

11. Flexibility of technology is a workable concept for new wireless services for which initial licenses are being awarded by competitive bidding. While it works for them, it is unfair to cite their circumstance as a reason to subject cellular services to a departure from analog technology. Analog is the lifeline around which industry standards have matured and upon which customers now

rely. It is a distinguishing, marketable characteristic by which cellular can compete with PCS and other new services. Perhaps someday a full digital transition will be assisted by cellular technologies still on the drawing board. Meanwhile metropolitan subscribers may find quick and economical solutions in the dual-mode or multiple-mode cellular phones. But Bristol Bay finds that such network technology is not yet economical in its area or for its size system. Likewise, the necessary handset devices are not yet within the economic reach of Bristol Bay=s rural subscribers and lower income users.

Conclusion

Bristol Bay urges the Commission to retain the analog compatibility standard for cellular radiotelephone services nationwide. The protections of FCC Rule Section 22.901 continue to benefit both home and roaming cellular system users in rural areas, and the licensees who serve them. Public safety issues as well as economic issues affecting small businesses warrant preservation of the analog standard.

Respectfully submitted,

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Risky Work Has a Hook in Fishermen

Commercial Employees on Boats Are 30 Times More Likely to Die on the Job

Peggy Andersen Associated Press
April 15, 2001; Page A12

SEATTLE -- Commercial fishermen know theirs is one of the most dangerous professions, especially in the winter off **Alaska** -- but they go to sea anyway.

"It's in the blood," Steve Custodio said with a shrug at Fisherman's Terminal in Salmon Bay before heading out to fish for black cod in the Bering Sea. "You cuss yourself out but you keep going back."

"There's an excitement that you can't understand till you're out there," said David W. Rundall, whose son David, 34, was skipper of the **fishing** boat Arctic Rose.

The 92-foot vessel vanished in the Bering Sea off **Alaska** on April 2. Of 15 people on board, Rundall's son is the only one whose body was recovered. He had pulled on his survival suit, but it wasn't fully zipped against water that is around 34 degrees this time of year.

"I think people either fall in love with it or they're scared to **death** and never want to set foot in one of those boats again," said the senior Rundall, of West Seattle.

"People will tell you hair-raising stories and they'll be smiling," he said. His son spared the family his stories, "but I heard from his friends. The close calls and things."

According to the National Institute for Occupational Safety and Health, commercial fishermen are 30 times as likely to die on the job as the average American worker.

Although the annual average for **fishing** fatalities in **Alaska** is around 17 -- down from a high of 33 in 1992 -- the sinking of the Arctic Rose earlier this month has already brought this year's total to 17, said Coast Guard Lt. Cmdr. Ernie Morton, a marine safety official in Juneau, **Alaska**.

"A lot of people come up here . . . to test themselves against the sea. There is always going to be an element of danger," he said.

Winter on the Bering Sea can produce 50-foot seas, 100-knot wind and wind chills of 40 below zero. Waves crashing on deck can fill a boat or short out vital electrical gear.

Ice forming on a boat's superstructure and gear can make ships so top-heavy they capsize. And the weather can combine with mechanical problems, such as failed bilge pumps.

"One little failing is not going to cause a boat to sink, but it could cause a cascade of failures that could ultimately be catastrophic," said Jonathan Parrott, director of engineering for Jensen Maritime, a Seattle marine engineering company. "If a little leak springs up in the hull, if your bilge pumps are working, it's no big deal -- but if they're not, then heaven help you."

In addition to all that, fishermen can be maimed or killed by big hooks, heavy deck gear or the equipment used to process the catch.

"It's relentless," said Bernie Fernandez, 42, of Bellingham, Wash., who was paying his respects to the crew of the Arctic Rose at the Fishermen's Memorial, a wall bearing the names of the hundreds of Seattle fishermen lost at sea since 1900.

Fernandez fished in the 1980s and 1990s out of Petersburg, **Alaska**, until his family had enough.

"When you went out on the Bering Sea, you knew you were among the elite," he said. "You had to be the best or you didn't come home."

The cause of the Arctic Rose's sinking isn't known. Its automatic emergency locator beacon began broadcasting at 3:30 a.m., when the weather was relatively calm for the Bering Sea: 6- to 8-foot seas and wind blowing at 25 knots.

"It had to have happened very quickly," and the crew members likely were asleep below decks, the elder Rundall said.

Rescuers found David Rundall, a few empty survival suits, an empty raft and an oil sheen. Another body was spotted but lost.

"This was his last trip," the father said. "Being away from his family -- it got to be too much for him. . . . His wife found him a tanker job, traveling on a big safe ship."

Oversight of the industry is slim. **Fishing** vessels under 5,000 tons "are what we call uninspected vessels," Morton said.

The industry is exempt from minimum-wage requirements and gets only spotty attention from the Occupational Safety and Health Administration.

Standards set by the **Fishing** Vessel Safety Act of 1991 only apply to boats built since then, but "we don't see many of those," Morton said.

"We get a lot of exemption requests," he said, which sometimes come with political pressure.

Most vessels submit to voluntary dockside inspections for safety gear and training. The Coast Guard wants such inspections to be mandatory.

"No amount of regulation can eliminate the risk," said Rep. Brian Baird (D-Wash.), who worries about the adequacy of the Coast Guard budget this year, especially with recent fuel price increases.

People in the industry said the owner of the Arctic Rose, Dave Olney of Arctic Sole Seafoods, treated his crews well and worked in the off season to maintain the company's two boats, the Arctic Rose and its sister ship, the Alaskan Rose.

His brother, Mike, was engineer on the Arctic Rose when it vanished, and Dave Olney himself skippered the vessel until three weeks ago.

"I figure if the owner's going out there, they've got to have confidence in the boat," the elder Rundall said.

The Bering Sea's Dependable Haul: Tragedy

Loss of a Crew of 15 Offers Chilling Reminder of Fishing's Toll

William Booth Washington Post Staff Writer
May 13, 2001; Page A3

KODIAK, Alaska -- The first thing to understand is this: The disappearance of the Arctic Rose was not a freak accident.

Fishing boats sink with frightening frequency here in the most dangerous waters in the most dangerous profession in the nation. What is unusual about the Arctic Rose is that all 15 crew members aboard went down without uttering an audible cry.

It was as if they fell off the edge of the world. No distress call. No Mayday. Probably because there was no time.

In the Bering Sea, a fishing vessel can **death**-roll in a heartbeat. Strong ships built like battering rams become as unstable as a tippy canoe, as tons of ice overload the top decks, or the big nets foul, and they are swallowed in a single, horrible gulp by a rogue wave.

Last month, the Arctic Rose was consumed. All it left behind was an oil slick, an empty life raft, a dead skipper -- and a mystery.

"There is a very good possibility that we're never going to know what happened out there," said Capt. Ronald J. Morris, head of the Coast Guard's formal inquiry into the sinking. "Because nobody is left alive to tell the story."

It was the deadliest single accident in the U.S. **fishing** fleet in half a century.

Yet while the loss of 15 fishermen on one boat is exceptional, the Arctic Rose is just one of dozens of boats that will slip beneath the ice-gray waters this year off the coast of **Alaska**.

The pursuit of salmon steaks, crab legs and fish sticks comes at a steep price. Commercial **fishing** remains the most dangerous occupation in America. A fisherman in **Alaska** is 16 times more likely to die than a police officer.

The annual accounting of the **fishing** industry in **Alaska** can read like a report from a battlefield: crew members lifted into helicopters, bleeding from awful amputations or

having suffered fractured skulls; boats lost or foundering due to engine failures, fire or grounding.

What makes **fishing** in **Alaska** so dangerous is the combination of almost incomprehensible conditions and extreme isolation. Gigantic storms pummel these waters, particularly in the winter and spring, and rescue can be hours and often days away.

The night the Arctic Rose went down, the 92-foot trawler was working an area known as the Zemchung Flats, as lonely a piece of ocean as exists in U.S. waters, some 235 miles northwest of a remote island called St. Paul in the Bering Sea. Even on decent maps that purport to show all of the United States, St. Paul often falls off the boundary, given over to Russia.

The Arctic Rose was a "head and gut" boat, meaning it caught and processed fish in a mini-factory on its stern decks, and then froze the filets. The boat was out searching for rock sole.

The weather that night was relatively calm. Scattered snow showers. Winds from the east at around 25 mph. Waves rolling across the **fishing** grounds at the height of a tall man.

"That's nice and calm on the Bering Sea," said Cmdr. Craig Gilbert, captain of the Storis, a 230-foot Coast Guard cutter that watches over the **Alaska fishing** fleet.

On a shakedown cruise last week, Gilbert sat in the bridge of the Storis, which was built in 1942 and is the oldest cutter in the Coast Guard fleet, as his crew ran man-overboard drills.

"I've sailed here and I've sailed the East Coast and this is by far the worst weather I've ever seen," Gilbert said. "It is almost hard to describe. Brutal. Unpredictable. Remote. Take your pick. People think you're exaggerating. It'll blow for four or five days at 80 knots [92 mph]. Up here they don't call that a hurricane. They call it windy."

The **fishing** fleet that went after snow crab in February faced an onslaught of hurricane-force winds and steep, ugly seas 30 feet high. An informal count by a reporter with the **Alaska** Fisherman's Journal found that 14 crabbing boats lost windows during the storm, damage that requires tremendous force.

When the Storis was last out on patrol, Coast Guard crewmen did a routine boarding of the Arctic Rose on Feb. 25 to check for safety gear and to look at the fish they were taking. Gilbert does not recall anything out of the ordinary.

On April 1, the night before the Arctic Rose sank, the vessel communicated at around 10:30 p.m. with its sister ship, the Alaskan Rose, which was **fishing** the same waters.

Like most modern **fishing** boats, the bridge of the Arctic Rose was a mini-communications center, with VHF and single-sideband radios and satellite and cellular phones. Investigators suspect that whatever happened to the Arctic Rose was fast and catastrophic.

At 3:38 a.m. on April 2, an orbiting satellite relayed an automated distress call from the Arctic Rose. It was a coded beep from the vessel's Emergency Position Indicating Radio Beacon, an EPIRB, which is activated when submerged in water. The automated distress was received by an orbiting satellite and relayed five minutes later to Coast Guard headquarters in Juneau.

Repeated attempts to hail the Arctic Rose failed, and so search-and-rescue operations began in Kodiak. A Coast Guard C-130 aircraft was airborne and en route in an hour and 25 minutes, but because of the great distance, it would take five hours for the plane to reach the site.

While aloft, the C-130 reached the sister ship, the Alaskan Rose, which was only seven miles away from the sunken vessel but had heard nothing from the Arctic Rose.

In the morning light, the Alaskan Rose found the debris field: the oil slick, the empty life raft, six empty survival suits afloat, and the skipper, who had gotten into his red survival suit but had not managed to zip it up completely. The thick, bulky Neoprene suits are actually hard to get into. The gloved hands are often mittens, and the cold water quickly saps strength. When entered dry, the suits can keep a person alive in freezing water for hours, but if water enters the outfit, the survival times are drastically reduced.

Coast Guard investigators, and the men and women who fish this frigid edge, know that the survival time for a human immersed in the near-freezing water of the Bering Sea is measured in minutes. The water temperature was 36 degrees the night the Arctic Rose disappeared. Seawater freezes at 28 degrees.

Coast Guard rescue swimmer Bob Watson, who has plucked many fishermen from the water, describes it this way: "You feel a charley-horse, and then you start to get really stiff. Leg lock. You swim with your arms and then they go." The survival charts predict loss of consciousness in 15 to 30 minutes. "And a lot of them lose the will to live faster than that," Watson said.

Dave Jentry, captain of the **Alaska** Spirit, a 98-foot trawler, has been **fishing** in **Alaska** for more than two decades and is one of the most respected skippers in Kodiak. He can only guess what sank the Arctic Rose. It is possible that ice coated the vessel's upper decks, decreasing its stability, or that a dragging net pulled it over.

"There is not one day out there you don't worry about getting home," he said last week, as he and his crew were baiting hooks with squid to go out for halibut.

Coast Guard investigators will examine what modifications were made to the Arctic Rose that might have changed how it rides in the water. One former crewman who worked on the boat when it was under different ownership described the vessel as too narrow and tippy for the Bering Sea.

The current owners of the Arctic Rose have declined to speak with reporters, citing looming lawsuits by the relatives of the dead crew members. One of the boat's owners lost his brother in the sinking.

While the loss of the Arctic Rose has renewed calls by Coast Guard officials for more regulation of an industry filled with risk-takers, the commercial **fishing** industry and many of its political patrons have zealously protected the business from increased safety requirements.

Congress has consistently refused to grant the Coast Guard more power to inspect **fishing** captains and their vessels.

One skipper in Kodiak who supports more oversight says that the fish he catches have more protections from the government than the crews he takes to sea.

At one dockside bar, a couple of crewmen who asked that their names not be used said many ordinary fishermen probably would welcome more safety rules. "But the skippers and owners don't want it," said one young bearded man from Oregon. "They want to catch fish and make money. So do I. But I have walked away from boats that look bad. You can just tell. The maintenance hasn't been done. The owners live someplace else. And it is, like, normal for boats to get into trouble out there."

Wholesale commercial **fishing** in **Alaska** is a $1.2 billion-a-year industry -- more than half the seafood caught in U.S. waters comes from the state. Taxpayers also subsidize the industry through the Coast Guard stations, cutters and helicopters to watch over the fishermen and to rescue them when they get into trouble.

Yet the safety record of the **fishing** fleet in **Alaska** -- as measured by the number of **deaths** -- has slowly improved through the 1990s.

Jennifer Lincoln, a researcher with National Institute for Occupational Safety in Anchorage, found that while the number of vessels lost at sea in Alaska has remained steady -- between 25 and 45 sink every year -- the mortality rates have been decreasing.

Lincoln and others credit the passage in 1988 of the Commercial Fishing Vessel Safety Act, which was a first legislative step to save lives aboard the boats. The act mandates minimal safety equipment. Coast Guard officials say they want to build upon the success of the 1988 law with stricter requirements for safety inspections of vessels and crews.

At the end of March, the Coast Guard headquarters in Juneau issued a news release congratulating the **Alaska** commercial **fishing** industry for improved safety. In 1991, 36 fishermen died. In 2000, only seven. This year was looking even better.

Two crew members died on the Amber Dawn, and a young fisherman fell into the water a few hundred yards from the docks at Kodiak and drowned. No one on that boat saw him go into the sea.

Then the Arctic Rose disappeared.

"This is a great life," said Jentry, who was rigging hooks under a blue sky in port as his young grandson played around the boat. "But there is not a minute out there you can stop worrying. And sometimes, for all the worrying, your luck runs out."